

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1169

AN ACT

AMENDING SECTIONS 11-461, 12-1178 AND 42-1118, ARIZONA REVISED STATUTES;
RELATING TO PERSONAL IDENTIFYING INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-461, Arizona Revised Statutes, is amended to
3 read:

4 11-461. Recording instruments; keeping records; identification;
5 location; social security numbers

6 A. The recorder shall have custody of and shall keep all records, maps
7 and papers deposited in the recorder's office.

8 B. The recorder shall record separately, in typewriting, in a legible
9 hand or by use of photostatic or photographic machines or by a system of
10 microphotography, all instruments or writings required or authorized by law
11 to be recorded. In a like manner, the recorder shall record any other
12 instrument offered for recording provided the instruments meet the
13 requirements of section 11-480.

14 C. The recorder may accept a digitized image of a recordable
15 instrument for recording if it is submitted by a title insurer or title
16 insurance agent as defined in section 20-1562, by a state chartered or
17 federally chartered bank insured by the federal deposit insurance
18 corporation, by an active member of the state bar of Arizona, by an agency,
19 branch or instrumentality of the federal government or by a governmental
20 entity and the instrument from which the digitized image is taken conforms to
21 all applicable laws relating to the recording of paper instruments.

22 D. Instruments shall be recorded consecutively as of the time they are
23 received. The recorder shall affix to each instrument, either by hand or in
24 a digitized form, a notation or notations sufficient to provide:

25 1. A record identification to uniquely identify each instrument and to
26 fix its position within the sequence of recordings.

27 2. A record location to enable each instrument to be retrieved for
28 purposes of inspection.

29 E. Instruments may be recorded in docket books, in separate record
30 books or in suitable containers, if the location of each instrument can be
31 determined from notations both on the instrument and in the appropriate
32 index. Reference to any recorded instrument may be made by the record
33 location without further description.

34 F. Any reference to docket and page, or book and page, or similar
35 indication means the record location as notated on each recorded instrument.

36 G. ON OR BEFORE JANUARY 1, 2009, THE RECORDER SHALL REDACT REFERENCES
37 TO SOCIAL SECURITY NUMBERS ON INSTRUMENTS THAT ARE RECORDED AFTER DECEMBER
38 31, 1985 AND THAT ARE AVAILABLE ON THE RECORDER'S WEBSITE. SOCIAL SECURITY
39 NUMBERS MAY BE RETAINED ON INSTRUMENTS THAT ARE NOT AVAILABLE ON A WEBSITE.
40 FOR ALL INSTRUMENTS THAT ARE RECORDED BEFORE JANUARY 1, 1986 AND THAT ARE
41 AVAILABLE ON A RECORDER'S WEBSITE, THE RECORDER SHALL REDACT REFERENCES TO
42 SOCIAL SECURITY NUMBERS AT THE REQUEST OF THE HOLDER OF THE SOCIAL SECURITY
43 NUMBER IF THE HOLDER IDENTIFIES THE RECORDED INSTRUMENT. THE RECORDER IS NOT
44 LIABLE FOR ANY ERRORS OR CASES OF STOLEN IDENTITY RESULTING FROM REDACTIONS
45 MADE PURSUANT TO THIS SUBSECTION.

1 Sec. 2. Section 12-1178, Arizona Revised Statutes, is amended to read:
2 12-1178. Judgment: writ of restitution: limitation on issuance

3 A. If the defendant is found guilty, the court shall give judgment for
4 the plaintiff for restitution of the premises, for all charges stated in the
5 rental agreement and for damages, attorney fees, court and other costs and,
6 at the plaintiff's option, ~~for~~ all rent found to be due and unpaid through
7 the periodic rental period, as described in section 33-1314, subsection C, as
8 provided for in the rental agreement, and shall grant a writ of
9 restitution. If the defendant's social security number is contained on the
10 complaint at the time of judgment, the person designated by the judge to
11 prepare the judgment shall ensure that the defendant's social security number
12 is **NOT** contained on the judgment.

13 B. If the defendant is found not guilty, judgment shall be given for
14 the defendant against the plaintiff for damages, attorney fees, ~~— AND~~ court
15 and other costs, and if it appears that the plaintiff has acquired possession
16 of the premises since commencement of the action, a writ of restitution shall
17 issue in favor of the defendant.

18 C. No writ of restitution shall issue until the expiration of five
19 calendar days after the rendition of judgment. The writ of restitution shall
20 be enforced as promptly and expeditiously as possible. The issuance or
21 enforcement of a writ of restitution shall not be suspended, delayed, ~~—~~ or
22 otherwise affected by the filing of a motion to set aside or vacate the
23 judgment or similar motion unless a judge finds good cause.

24 Sec. 3. Section 42-1118, Arizona Revised Statutes, is amended to read:
25 42-1118. Refunds, credits, offsets and abatements

26 A. If the department determines that any amount of tax, penalty or
27 interest has been paid in excess of the amount actually due, the department
28 shall credit the excess amount against any tax administered pursuant to this
29 article, including any penalty or interest owed by the taxpayer. If it is
30 determined that the amount cannot be credited against a tax or installment of
31 taxes due from the taxpayer, the department may:

32 1. Refund the entire amount of tax, interest and penalty, in a lump
33 sum or in not more than five annual installments, to the taxpayer from whom
34 it was collected.

35 2. Issue to the taxpayer a credit voucher for the entire amount of
36 tax, interest and penalty collected, to be carried forward and applied
37 against future tax liabilities until exhausted.

38 3. Refund part, and issue a credit voucher for the balance, of the
39 tax, interest and penalties as provided in paragraphs 1 and 2 of this
40 subsection.

41 B. If the total amount withheld from income under section 43-401
42 exceeds the amount of the tax on the employee's entire taxable income as
43 computed under title 43, the department shall refund the amount of the excess
44 deducted without requiring a filing of a refund claim as provided in this
45 section. The failure of the department to make the refund does not limit the

1 right of the taxpayer to file a claim for a refund pursuant to this section
2 if the claim is not barred under section 42-1106. The department shall not
3 refund amounts less than one dollar unless specifically requested by the
4 taxpayer at the time the return or claim for refund is filed.

5 C. Any overpayment that may result from withholdings or estimates
6 pursuant to section 43-401, 43-581 or 43-582 shall not be credited or
7 refunded unless an Arizona income tax return has been filed for the tax year
8 for which the withholdings or estimates were made.

9 D. The department shall give a vendor who has a duty to collect use
10 tax pursuant to chapter 5, article 4 of this title and who has not collected
11 that tax full credit or offset for any use tax, interest and penalty paid to
12 the department by the purchaser when issuing a determination of a deficiency
13 pursuant to section 42-1108. This credit or offset shall be computed from
14 the date of the use tax payment by the purchaser. If the purchaser has been
15 audited by the department for use tax for the period of the purchase, the
16 purchaser is considered to have paid the use tax to the department. For
17 other purchases, the vendor may submit an affirmation by a purchaser on a
18 form prescribed by the department that use tax was paid on the purchase. A
19 fully completed certificate, taken in good faith by the vendor, constitutes
20 proof that the vendor is entitled to this credit or offset. The department
21 may require a purchaser who has submitted the certificate to establish the
22 accuracy and completeness of the information contained in the certificate.
23 If the purchaser cannot establish the accuracy and completeness of the
24 information, the purchaser is liable for a penalty equal to the amount of tax
25 and interest that would have been paid by the seller and for the additional
26 penalties pursuant to section 42-1125. Payment of the penalty relieves the
27 purchaser of any responsibility for paying the use tax. The department may
28 require this proof and may assess the purchaser within the later of the
29 period of limitations set forth in section 42-1104 or one year from the date
30 the notice of proposed deficiency is issued to the vendor if the purchaser
31 does not establish the accuracy of the information contained in the
32 certificate.

33 E. Each claim for refund shall be filed with the department in writing
34 and shall identify the claimant by name, address and tax identification
35 number. Each claim shall provide the amount of refund requested, the
36 specific tax period involved and the specific grounds on which the claim is
37 founded. Refunds are subject to setoff for debts pursuant to section
38 42-1122.

39 F. A motor vehicle manufacturer that repurchases a vehicle pursuant to
40 section 44-1263 or for reasons of consumer satisfaction may apply for a
41 refund of the taxes paid under chapter 5 of this title if that manufacturer
42 has refunded the amount of tax to the consumer. A refund is allowed under
43 this subsection only if the manufacturer provides satisfactory proof to the
44 department that tax amounts attributed to the sale of the vehicle were
45 collected from the consumer and that the manufacturer refunded an amount of

1 tax to the consumer. Any refund provided under this subsection is in lieu of
2 any refund on the vehicle that the dealer may otherwise be entitled to
3 receive. A manufacturer must apply for a refund under this subsection within
4 four years after repurchasing the vehicle. For the purposes of this
5 subsection:

- 6 1. "Consumer" has the same meaning prescribed in section 44-1261.
- 7 2. "Motor vehicle manufacturer" means a corporation engaged in the
8 business of producing passenger cars, trucks and multipurpose PASSENGER
9 vehicles as described in 49 Code of Federal Regulations section 571.3.
- 10 3. "Satisfactory proof" includes copies of checks and a purchase or
11 lease agreement that lists the vehicle identification number and that
12 itemizes the amount that was collected as tax from the consumer.

13 G. THE DEPARTMENT SHALL NOT IMPRINT THE FULL SOCIAL SECURITY NUMBER OR
14 OTHER TAXPAYER IDENTIFIER USED PURSUANT TO SECTION 42-1105 ON ANY TAXPAYER
15 REFUND CHECK, VOUCHER OR OTHER CREDIT DOCUMENTATION ISSUED TO THE TAXPAYER
16 UNDER THIS SECTION.

17 G. H. If any amount has been erroneously determined to be due from
18 any person but not yet collected, the department shall cancel the amount or
19 amounts on its records.

20 H. I. If, with or after the filing of a protest or an appeal with the
21 department, the state board of tax appeals or the court, a taxpayer pays the
22 tax protested or appealed before the department, board or court acts upon the
23 protest or the appeal, such body shall treat the protest or the appeal as a
24 claim for refund or an appeal from the denial of a claim for refund filed
25 under this section.